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October 20, 2022

VIA ECF

The Honorable Valerie E. Caproni
United States District Judge
Southern District of New York
40 Foley Square
New York, NY 10007

Flores, et al. v. The National Football League, et al., No. 22-cv-871-VEC

Dear Judge Caproni:

Defendants write in response to Plaintiffs' October 14, 2022 letter (Dkt. 68) regarding an unpublished order recently entered in *Gruden v. NFL*, No. A-21-844043-B (Nev. Dist. Ct. Clark Cty). That order sets forth the grounds for the Nevada state court's prior ruling, delivered orally from the bench in May, which denied a motion to compel arbitration of a former coach's state-law tort claims against the NFL and the NFL Commissioner. The NFL has appealed that decision.

Contrary to Plaintiffs' arguments, the *Gruden* order does not in any way bear on Defendants' pending motion to compel arbitration here. As an initial matter, there is nothing "new" about last week's order, which merely elaborates on the grounds for the court's prior oral ruling (already relied upon in Plaintiffs' opposition briefing) from several months ago. We believe that ruling, and the subsequent order, are inaccurate as a matter of controlling law, for multiple reasons that the NFL will explain on appeal.

But more importantly, the Nevada state court's decision has no bearing whatsoever on whether these Plaintiffs should be compelled to arbitrate their claims. Among many other crucial distinctions, the plaintiff in *Gruden* has not asserted any claims against any clubs. Here, in contrast, Plaintiffs have expressly asserted claims against the clubs that employed them and with which they entered into controlling arbitration agreements. Plaintiffs' claims against the NFL and the other clubs are inextricably intertwined with their claims against those clubs. *See* Defs.' Mot. to Compel Arbitration 22-23 (Dkt. 48). Plaintiffs' claims are thus exactly the kind of claims that they specifically agreed would be

subject to arbitration under the unambiguous terms of their employment agreements and the NFL Constitution.

Accordingly, the *Gruden* decision is entirely inapposite, and Defendants' motion to compel arbitration should be granted for the reasons set forth in our briefing.

Respectfully submitted,

/s/ Loretta E. Lynch

Loretta E. Lynch

cc: Counsel of Record (via ECF)